

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RADAR ONLINE LLC and JAMES ROBERTSON,

Plaintiffs,

- versus -

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

No. 17 Civ. 3956 (PGG)

STIPULATION AND ~~RECEIVED~~ ORDER MODIFYING FOIA REQUEST

WHEREAS, on or about April 20, 2017, plaintiff James Robertson (“Robertson”) submitted a FOIA request to the Federal Bureau of Investigation (“FBI”) for all documents relating to the FBI’s investigation and prosecution of Jeffrey Edward Epstein (“Epstein Request”);

WHEREAS, on or about August 28, 2017, Plaintiffs Radar Online LLC and James Robertson filed an amended complaint challenging the FBI’s responses to the Epstein Request;

WHEREAS, the FBI represents, after conducting a reasonable search for records responsive to the request, that the responsive records are likely to be located in the following files maintained by the FBI:

- (a) Main file – contains documents relating to general investigatory activity, such as interview forms and accomplishment reports;
- (b) 1A file – contains various items relating to the main file, such as interview notes, subpoena results, documents provided by sources and personal documents relating to third parties;
- (c) Subfile FF – contains documents relating to general forfeiture matters;
- (d) Subfile GJ – contains documents relating to federal grand jury subpoenas; and

(e) Subfile GJ-1A – contains documents relating to federal grand jury subpoenas; and

WHEREAS, Plaintiffs and the FBI (the “Parties”) wish to resolve certain aspects of this matter without further litigation;

NOW, THEREFORE, it is hereby STIPULATED and AGREED between the Parties as follows:

1. The FBI’s search obligations in this action as to the Epstein Request are solely related to the Main file, the 1A file, and Subfile FF, as described above. This modification supercedes the original Epstein Request (“Modified Epstein Request”). Plaintiffs agree to limit the scope of their request to the records located in the Main file, the 1A file, and Subfile FF and Plaintiffs forego the right to challenge a search on the grounds that the FBI’s search is limited to these three specific files.

2. The FBI will process those documents located in Modified Epstein Request by reviewing each document for responsiveness, and redacting or withholding information subject to applicable FOIA exemptions. This processing will occur at a rate of 500 pages per month, starting October 1, 2017, except nonexempt portions of an initial 250 pages will be produced within 5 days of the entry of this Order.

3. On the 1st day of each month after the entry of entry of this Order (or, if that date is a weekend or federal holiday, the next business day), the FBI will produce non-exempt portions of the 500 pages that have been processed and reviewed for responsiveness and exemption in accordance with this Stipulation. The Parties can agree in writing to modify this deadline on a monthly basis without further approval from the Court.

4. Simultaneously with its production, the FBI will inform plaintiffs of the number of pages being withheld in full, as well as the statutory basis for the withholding. The FBI

shall submit a draft *Vaugh* index, subject to rule 408 of the Federal Rules of Evidence, within 60 days of the conclusion of the final production. The Government reserves the right to make modifications to its final *Vaugh* index, including adding exemptions not previously asserted or making any other changes.

5. If Plaintiffs wish to challenge any exemptions asserted by the FBI with respect to documents processed pursuant to this Stipulation, they will first present informally to the FBI a list of disputed exemptions and their basis for disputing each. The FBI will then provide additional information, to the extent possible, for the purpose of attempting to resolve the dispute without further litigation. In the event the parties are not able to resolve the dispute, within 60 days of the final production, the FBI shall produce a *Vaughn* Index. Thereafter, the parties shall meet and confer regarding the FBI's redactions and withholdings of records in response to the modified Epstein Request in an effort to narrow any disagreements regarding the propriety of such redactions and withholdings. Within 60 days of the parties meet and confer, the parties shall submit to the Court a joint status letter and propose a schedule, if necessary, a schedule for summary judgment motions regarding any outstanding issues in dispute. The FBI will file an initial summary judgment motion as to the applicability of disputed exemptions.

6. Subject to the provisions of paragraph 5, Plaintiffs retain their right to challenge any exemptions asserted by the FBI with respect to documents processed pursuant to this Stipulation.

Date: New York, New York
October 4, 2017

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SO ORDERED:

Paul G. Gardephe
HON. PAUL G. GARDEPHE
UNITED STATES MAGISTRATE JUDGE

Oct. 4, 2017 tm